

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

ELIJAH MARTIN, #318 746,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION NO. 2:20-CV-675-ECM-SRW
	)	[WO]
WARDEN BUTLER, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**RECOMMENDATION OF THE MAGISTRATE JUDGE**

On September 9, 2020, the court directed Plaintiff to forward to the Clerk of Court an initial partial filing fee in the amount of \$30.50. Doc. 4. Plaintiff was cautioned that his failure to comply with the September 9 order would result in a recommendation that his complaint be dismissed. *Id.*

The time to comply with the September 9, 2020, order expired on September 30, 2020, and plaintiff has not provided the court with the initial partial filing fee. The court, therefore, concludes that this case is due to be dismissed. *Moon v. Newsome*, 863 F.2d 835, 837 (11th Cir. 1989) (explaining that as a general rule, where a litigant has been forewarned, dismissal for failure to obey a court order is not an abuse of discretion.); *see also Tanner v. Neal*, 232 F. App'x. 924 (11th Cir. 2007) (affirming *sua sponte* dismissal without prejudice of inmate's § 1983 action for failure to file an amended complaint in compliance with court's prior order directing amendment and warning of consequences for failure to comply).

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that this case be DISMISSED without prejudice for Plaintiff's failure to prosecute this action and comply with the orders of this court.

**On or before March 16, 2021**, Plaintiff may file an objection to the recommendation. Any objection filed must specifically identify the factual findings and legal conclusions in the

Magistrate Judge's recommendation to which plaintiff objects. Frivolous, conclusive or general objections will not be considered by the District Court. This recommendation is not a final order and, therefore, it is not appealable.

Failure to file written objections to the proposed findings and recommendations in the Magistrate Judge's report shall bar a party from a *de novo* determination by the District Court of factual findings and legal issues covered in the report and shall "waive the right to challenge on appeal the district court's order based on unobjected-to factual and legal conclusions" except upon grounds of plain error if necessary in the interests of justice. 11TH Cir. R. 3-1; *see Resolution Trust Co. v. Hallmark Builders, Inc.*, 996 F.2d 1144, 1149 (11th Cir. 1993); *Henley v. Johnson*, 885 F.2d 790, 794 (11th Cir. 1989).

DONE, on this the 2<sup>nd</sup> day of March, 2021.

/s/ Susan Russ Walker  
Susan Russ Walker  
United States Magistrate Judge